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**End User Common line  
Charges**

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**To: The Commission**

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The American Petroleum Institute ("API"), by its attorneys, hereby submits its Comments in response to the Notice of Proposed Rulemaking released on May 30, 1995 ("Notice") on the application of End User Common Line Charges, commonly referred to as the Subscriber Line Charges ("SLCs"), to local loops used with Integrated Services Digital Network ("ISDN") and other so-called derived channel services.

1. API is a national trade association representing approximately 300 companies involved in all phases of the petroleum and natural gas industries, including exploration, production, refining, marketing, and transportation of petroleum, petroleum products and natural gas. Among its many activities, API acts on behalf of its members as spokesperson before federal and state regulatory agencies.

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The API Telecommunications Committee is one of the standing committees of the organization's Information Systems Committee. The Telecommunications Committee evaluates and develops responses to state and federal proposals affecting telecommunications facilities used in the oil and gas industries.

2. Among member companies there is a growing interest in ISDN services. Both the Primary Rate Interface ("PRI") and the Basic Rate Interface ("BRI") services are viewed favorably, particularly because of growing demand for PC-based data communications.<sup>1/</sup> Digital service is far superior to analog offerings for data communications. PRI service is being selected for corporate centers and the local BRI offering is typically subscribed to at smaller offices. ISDN service availability remains a concern.

3. BRI service could play a significant role in connection with expanded telecommuting opportunities. In many instances, telecommuting is optional. In other situations, telecommuting is viewed as a means of satisfying

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<sup>1/</sup> See e.g., "Internet Service Providers to Ride a Familiar Roller Coaster," Business Communications Review, Cumming and Knight, p. 67 ("Less than .01 percent of all global Internet users are estimated to have the capability to access the bandwidth needed to run Mosaic, the multimedia Worldwide Web "browser," that has taken the Internet world by storm.") (Emphasis added.) ("Internet Article.")

employee trip reduction obligations mandated under the Clean Air Act. This is particularly true in urban areas such as Houston, Los Angeles, Dallas and Chicago, where employees of member companies are concentrated.

#### **DISCUSSION**

4. API supports the per-facility approach for assessing SLCs on derived channel services. This approach is consistent with the comparable treatment accorded Centrex lines and PBX trunks with regard to SLCs and is adaptable for emerging technologies. Conversely, the per channel approach could stifle emerging technologies, is based on a strained interpretation of the Commission rules, and could very well have the unintended consequence discouraging switched access utilization.

5. The Notice suggests that a number of core policies and public interest considerations embedded on the access charge rules are relevant to this proceeding. These include encouraging switched access utilization by minimizing the recovery of non-traffic sensitive (NTS) costs through a per-minute charge, imposing access costs on a competitively neutral basis, and maintaining universal service. While all these policy considerations have some relation to any proceeding involving access charges, API believes that the critical policy consideration in this proceeding is the

potential impact on the recovery of NTS costs. The other policies are so intertwined with all the access charge rules that it is difficult to isolate their cause or effect with regard to the matter of determining SLCs for derived channel services.

6. In considering the relevant policy consideration, the Commission should re-evaluate the premise that "[w]idespread use of ISDN and other derived channel services under [approaches other than the channel-derived approach] could reduce SLC revenues over time." See Notice, ¶ 25. While possibly true in theory, it overlooks an even more fundamental consideration. Reasonably priced, digital derived channel services will likely promote switched access utilization; digital services are far more reliable for data and voice communications; and, unless digital local loop offerings are both available and priced reasonably, businesses of all sizes will look increasingly to dedicated access for digital connectivity.<sup>2/</sup> The migration from switched to dedicated services is a far more important policy consideration than possible shifts in the manner in which NTS costs are recovered.

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<sup>2/</sup> ISDN is a preferred dial-up access technology for MCI's InternetMCI Service. On the other hand, this service is designed to accommodate numerous dedicated access options. Internet Article, p. 68.

7. The Notice observes that anomalies may arise under a facility-based approach. Notice, ¶ 26. While there are limits to any option, relying on facility-based SLCs is more consistent with the Commission's access charge rules. Southwestern Bell has previously noted that the Commission imposed SLCs equally on centrex lines and PBX trunks, rejecting the notion that usage or traffic should determine the level of the SLC.<sup>3/</sup> Moreover, the facility-based approach is more adaptable to new technologies. Bell Atlantic has observed the bandwidth-on-demand services such as "National ISDN 2" cannot be accommodated in a rational manner under a derived channel approach.<sup>4/</sup>

8. Over and above the paucity of digital local loop service throughout the country and that ISDN-compatible CPE still commands a noteworthy premium, see Notice, n.5, the cost impact of a channel-derived approach could be significant. For example, PRI service that costs \$700 per month would be subject to a surcharge approximating twenty percent (20%) under the derived channel approach (\$6 x 23 channels = \$138.00/month). This could constitute a real "penalty" for digital local loop services.

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<sup>3/</sup> NYNEX Telephone Companies Revisions to Tariff F.C.C. No. 1, 10 FCC Rcd 2247, p. 2249.

<sup>4/</sup> Ibid.

9. The Commission is urged not to pursue any of the so-called intermediate options which contemplate an increase in either the business or residential SLC. See e.g., Notice, ¶¶ 23 and 33. The scope of this proceeding is narrow, the impact of derived channel service on access revenues is probably at or barely above the de minimis level, and the Commission has no factual basis for concluding a facility approach will impact adversely NTS cost recovery. In fact, a facility approach could well stimulate interstate switched access utilization. At the most, any deviation from the facility approach should be tied to cost comparisons of providing derived channel services and conventional local loops. See Notice ¶ 27. Contrary to the suggestion that looking at cost data could be burdensome, see Notice n. 40, the Commission is urged to develop a rational basis for departing from the facility approach.

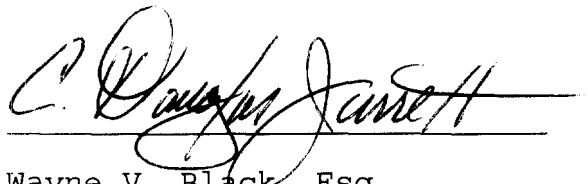
#### CONCLUSION

10. API respectfully urges the Commission to adopt the facility approach at least until such time as derived channel services are more widely available and more extensively used. This approach is consistent with existing access charge principles, is more readily adaptable for new

technologies, and may well stimulate demand for interstate switched access.

Respectfully submitted,

The American Petroleum Institute

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**CERTIFICATE OF SERVICE**

I, Cassandra L. Hall, a secretary in the law firm of Keller and Heckman, hereby certify that a copy of the foregoing was served by hand-delivery on this 29th day of June, 1995, to the following:

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